

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-23538-shl

4 - - - - - x

5 In the Matter of:

6

7 SEARS HOLDINGS CORPORATION,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 January 18, 2023

17 11:02 AM

18

19

20

21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ART

1 HEARING re Omnibus Hearing

2

3 HEARING re Doc. #10753 Final Application For Final

4 Professional Compensation For Jones Lang LaSalle Americas,

5 Inc. And JLL Valuation And Advisory Services, LLC, Other

6 Professionals

7

8 HEARING re Doc. #10755 Second Application For Final

9 Professional Compensation Of Paul, Weiss, Rifkind, Wharton &

10 Garrison LLP, Attorneys For The Debtors

11

12 HEARING re Doc. #10756 Final Application For Final

13 Professional Compensation Of Herrick, Feinstein LLP As

14 Special Conflicts Counsel To The Official Committee of

15 Unsecured Creditors

16

17 HEARING re Doc. #10757 Final Application For Final

18 Professional Compensation Of Akin Gump Strauss Hauer & Feld

19 LLP As Counsel to the Official Committee of Unsecured

20 Creditors

21

22 HEARING re Doc. #10758 Final Application For Final

23 Professional Compensation Of FTI Consulting, Inc., Financial

24 Advisor To The Official Committee of Unsecured Creditors

25

1 HEARING re Doc. #10760 Notice Of Hearing On Final
2 Applications For Allowance Of Compensation And Reimbursement
3 Of Expenses
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 AKIN GUMP STRAUSS HAUER & FELD LLP

4 Attorneys for Official Committee of Unsecured Creditors

5 One Bryant Park

6 New York, NY 10036

7

8 BY: SARA BRAUNER

9

10 WEIL, GOTSHAL & MANGES LLP

11 Attorneys for the Debtor

12 767 Fifth Avenue

13 New York, NY 10153

14

15 BY: PHIL DIDONATO

16

17 PAUL, WEISS, RIFKIND, WHARTON GARRISON

18 Attorneys for the Restructuring Subcommittee

19 1285 Ave of the Americas

20 New York, NY 10022

21

22 BY: ROBERT BRITTON

23

24

25

1 FRANKGECKER LLP

2 Attorneys for Jones Lang LaSalle Americas and JLL
3 Valuation and Advisory Services
4 1327 W. Washington, Suite 5g-H
5 Chicago, IL 60607
6

7 BY: JEREMY C. KLEINMAN
8

9 HERRICK, FEINSTEIN LLP

10 Official Committee of Unsecured Creditors
11 2 Park Avenue
12 New York, NY 10016
13

14 BY: CHRISTOPHER CARTY
15

16 ALSO PRESENT:
17

18 MATTHEW DIAZ, FTI CONSULTING
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: Good morning. This is Judge Sean Lane in the United States Bankruptcy Court for the Southern District of New York, here for an 11:00 hearing in Sears Holding Corporation. And let me get appearances from the parties. On behalf of the Debtors?

MR. DIDONATO: Good morning, Your Honor. For the record, Phil DiDonato, Weil Gotshal & Manges.

THE COURT: All right. Good morning.
On behalf of the Committee?

MS. BRAUNER: Good morning, Your Honor. Sara Brauner, Akin Gump Strauss Hauer & Feld, on behalf of both the Committee and the litigation designees. With me is my partner, Dean Chapman. And I believe some other UCC/designee professionals are on if they want to make their appearances.

THE COURT: All right. Good morning.
On behalf of the liquidating trustee? All right.

MR. DIDONATO: It's me again, Your Honor. Phil DiDonato, Weil Gotshal.

THE COURT: All right.

MR. DIDONATO: Should have made that clear the first time.

THE COURT: No worries. No worries. Let me get any other appearances that need to be made.

1 MR. BRITTON: Good afternoon, Your Honor. Bob
2 Britton, Paul Weiss, on behalf of the restructuring
3 subcommittee of the board of the Debtors.

4 THE COURT: All right. Good morning.

5 MR. KLEINMAN: Good morning, Your Honor. Jeremy
6 Kleinman on behalf of Jones Lang LaSalle Americas Inc. and
7 JLL Valuation and Advisory Services.

8 THE COURT: All right. Good morning.

9 MR. CARTY: Good morning, Your Honor. Christopher
10 Carty of Herrick Feinstein on behalf of the Official
11 Committee of Unsecured Creditors (indiscernible).

12 THE COURT: All right. Your audio is not the
13 greatest, let's put it that way. But I think we'll cross
14 that bridge if we have to in the hearing.

15 Any other appearances? All right.

16 So thank you for being here this morning. I know
17 there was a question asked of chambers whether we need to
18 have the hearing. I saw the certificate of no objection
19 last night. It's a very reasonable question. My general
20 view is that in a case of this size and importance -- well,
21 all cases are important, but I guess of public interest --
22 my view is to have a hearing on fees, even if it's a fairly
23 prompt hearing, just because I think it's a matter of optics
24 and transparency to the public that that's an important
25 value that we have.

1 And so as is often the case what happens though is
2 that the opportunity availed to the public and anybody else
3 who wants to be heard, sometimes no one wants to be heard
4 and the hearing proceeds fairly quickly. But that's the
5 thinking behind it, but my expectation is the hearing this
6 morning will be fairly prompt.

7 And with that, I know we're only on for a fee
8 application as everything else has been adjourned. So let
9 me turn it over to the liquidating trustee/Debtors.

10 MR. DIDONATO: Sure, Your Honor. And I am happy
11 to just walk through the agenda in the order. We filed the
12 agenda yesterday at Docket 10779. The first fee application
13 that's up to be heard today is for Jones Lang LaSalle.

14 THE COURT: All right. Good morning. And if you
15 want to group them according to sort of who they work for,
16 or however you think is appropriate to group them, I am open
17 to whatever suggestion you have on that front.

18 MR. DIDONATO: And I'm sorry, Your Honor, I think
19 we're going to leave it to the professionals. And I think
20 we have representation from JLL on to address any questions
21 you have on the applications. So I would defer to them.

22 THE COURT: All right.

23 MR. KLEINMAN: Good morning once again, Your
24 Honor. Jeremy Kleinman from the law firm of FrankGecker LLP
25 on behalf of the JLL entities.

1 Your Honor, we've heard no informal objection or
2 comment regarding the application and no formal objections
3 have been filed. Happy to answer any questions that the
4 Court might have. JLL served as a real estate advisor to
5 the Debtors and also provided real estate valuation and
6 appraisal services in connection with the Debtor's
7 exploration of the disposition of its 500-plus stores.

8 THE COURT: All right. Thank you very much. I
9 guess my only question really isn't necessarily so much as
10 to you, but perhaps it's the liquidating trustee or perhaps
11 somebody else who wants to address it. I know that there's
12 some history here in the sense of the winding up of the case
13 and some things that Judge Drain presided over this summer
14 in terms of the amount of money available in the estate to
15 pay attorney's fees. And as somebody fairly new to the
16 case, it would be helpful maybe to get the two-minute
17 summary of that just for my own edification in terms of
18 understanding the posture of the case vis-à-vis today's fee
19 applications. I don't know if anybody feels like jumping
20 into that particular void.

21 MR. DIDONATO: Your Honor, I wish I had M3, the
22 liquidating trustee representative on today, who I'm sure
23 could answer that question. I did connect with them
24 yesterday just in advance of this hearing, and I understand
25 from their perspective the amounts that are requested today

1 are within what's been reserved for the professionals in the
2 cases. I would hesitate to get into more detail than that,
3 frankly.

4 THE COURT: All right, that's fine. I wasn't
5 trying to put anybody unfairly on the spot. It was just
6 really for context for today. So I don't know if anybody
7 else has anything else they want to add. If not, we'll go
8 back to the application that was just presented. All right.
9 All right.

10 And let me ask if anybody wishes to be heard on
11 the Jones Lang LaSalle application, which I believe is on at
12 Docket 10753. All right.

13 Hearing no response, I'm happy to grant that
14 application in full given the history of the case and the
15 documentation that was submitted in connection with the
16 final application. Thank you very much.

17 MR. KLEINMAN: Thank you, Your Honor. And to put
18 any concerns the Court has at ease regarding the impact on
19 the remaining funds in the estate. The amount to be paid
20 that remains unpaid is the modest amount of \$3,788.54.

21 THE COURT: All right. Thank you very much for
22 that. I appreciate it. All right.

23 Next up?

24 MR. DIDONATO: Next on the agenda is the final fee
25 application of Paul Weiss. And I believe that they are also

1 represented today, so I will leave it to them.

2 MR. BRITTON: Good morning, Your Honor. Bob
3 Britton, Paul Weiss.

4 Your Honor, our final fee application is on file
5 at Docket Number 10755 seeking payment of fees in the amount
6 of \$60,539.50 and expenses in the amount of \$312.91.

7 Prior to your taking over the matter and Judge
8 Drain's retirement, all of our fees incurred in the case up
9 to August or so were approved on a final basis. These fees
10 cover essentially the approval and settlement of the --
11 approval of the global settlement in the cases.

12 In connection with that final fee application that
13 Judge Drain had approved, we had entered into a settlement
14 with the fee examiner in the case pursuant to which we
15 agreed to write off just under \$245,000 of total fees for
16 the case. I can confirm for you that this final fee
17 application is net of the remaining balance of that write
18 off.

19 THE COURT: All right.

20 MR. BRITTON: And so we are seeking the balance
21 after the implementation of that settlement.

22 THE COURT: All right. Thank you very much.

23 Any party wish to be heard in connection with the
24 second application for final professional compensation of
25 the Paul Weiss firm? All right.

1 Thank you for the background, Mr. Britton. I
2 think that my earlier question was somewhat an inartful
3 attempt to elicit that background. So I appreciate that.
4 Thank you very much.

5 I'm happy to approve the second application for
6 final professional compensation in this case given all the
7 facts and circumstances of the case and after review of the
8 applicable documentation and my review of the history of the
9 case based on the docket. So that second application is
10 approved.

11 Next up?

12 MR. BRITTON: Thank you, Your Honor.

13 MR. DIDONATO: Next on the agenda, Your Honor, is
14 the final application of Herrick Feinstein as special
15 conflicts counsel to the UCC.

16 MR. CARTY: Your Honor, Christopher Carty of
17 Herrick Feinstein. Can you hear me better this time?

18 THE COURT: Yeah, I can hear you just fine now.

19 MR. CARTY: Okay, great. The background for this
20 final fee application is at Docket 10756. It's similar to
21 what Mr. Britton described. In connection with our prior
22 final fee application, which was for fees through June 2022,
23 we participated in global settlement with the fee examiner
24 for Herrick, agreed to write down about \$200,000 of its
25 fees. This final application is for the months of July and

1 August 2022. And while we seek approval of \$79,211.20 in
2 fees and expenses, pursuant to that settlement, we will not
3 be collecting those funds from the estate. They be part of
4 the (indiscernible).

5 THE COURT: All right. Thank you very much.

6 Any party wish to be heard in connection with this
7 application of Herrick Feinstein? All right.

8 For similar reasons as enunciated, I am happy to
9 approve this final application for professional compensation
10 as the Herrick Feinstein firm as special counsel in light of
11 the work done on the global settlement after the time period
12 in question. Thank you very much.

13 And next up?

14 MR. DIDONATO: Sure. Next on the agenda, Your
15 Honor, is the final fee application of Akin Gump as counsel
16 to the UCC.

17 MS. BRAUNER: Good morning, Your Honor. Again,
18 Sara Brauner, Akin Gump, on behalf of both the UCC and the
19 litigation designees.

20 As Mr. Carty and Mr. Britton articulated, there
21 were discussions with the fee examiner among all of the
22 estate professionals, and Akin Gump agreed to reduce its
23 overall fees by \$1 million. That million was spread across
24 a number of applications beginning in I believe June of
25 2020. The ratable portion of reductions that applied for

1 the periods July and August of 2022 are of course reflected
2 in this application. So while we seek approval for all of
3 the amounts sought, it is reflective of that reduction. And
4 therefore, the amount paid will not include the two ratable
5 months of reductions contemplated by this fee period.

6 Again, if the Court has any questions, happy to
7 answer them. I would just note in final form that this
8 request covers both the fees incurred on behalf of the
9 litigation designees, which is a majority of the fees
10 sought, as well as a small amount sought on behalf of the
11 Committee. And that breakdown is set forth in our
12 application as well.

13 THE COURT: Yes, all right. Thank you very much.
14 Anybody wish to be heard on this application for
15 professional compensation of the Akin Gump firm? All right.

16 Once again, hearing no response, I am happy to
17 approve this final application given all the facts and
18 circumstances of the case here, which include the resolution
19 of fee issues with the fee examiner. Thank you very much.

20 And next up, of perhaps last up, is FTI. I'm not
21 sure if there's someone separate here for FTI or if somebody
22 from the official committee is going to handle that.

23 MS. BRAUNER: I believe Mr. Diaz can speak on
24 behalf of FTI.

25 THE COURT: All right. Thank you.

1 MR. DIAZ: Hi, good morning. This is Matt Diaz
2 from FTI. Like some of the other professionals, our fee
3 application is for the period -- you know, the final fee
4 application is for the sub-period after Judge Drain's
5 previous order. Our period was from July 1st, 2022 through
6 October 29th, 2022. The total amount was \$14,437
7 (indiscernible), the bulk of that related to work we've done
8 for the Committee as well as work we did for litigation
9 designees. And we have received no formal or informal
10 objections in connection with this application. If Your
11 Honor has any questions, I would be happy to answer them.

12 THE COURT: All right. Thank you very much.

13 Anybody wish to be heard on this application of
14 FTI Consulting, Inc.? All right.

15 Hearing no response, I am happy to approve the
16 final application for this sub-period for the reasons set
17 forth in the application and based on all the facts and
18 circumstances of the case. Thank you very much.

19 MR. DIAZ: Thank you very much.

20 THE COURT: And with that, is there anything else
21 left on the agenda for this morning?

22 MR. DIDONATO: That concludes the agenda, Your
23 Honor.

24 THE COURT: All right. Thank you very much. Let
25 me ask if there's any need for any other dates or if all

1 those dates I guess would be in the context of adversary
2 proceedings.

3 MR. DIDONATO: I think that's right, Your Honor.
4 We will coordinate with chambers. I think we are looking to
5 schedule perhaps a February date for some adversary
6 proceedings.

7 THE COURT: All right. Reach out to Ms. Ebanks.
8 If you have any particular dates in mind now, I'm happy to
9 address them. But I'm also perfectly happy to have you
10 think about it and then reach out to Ms. Ebanks. Thank you
11 very much.

12 MR. DIDONATO: Thank you, Your Honor.

13 THE COURT: Have a good day.

14 (Whereupon these proceedings were concluded at
15 11:18 AM)

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

-

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: January 19, 2023